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COMMITTEE AGAINST TORTURE

Twenty-eighth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 525th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 15 May 2002, at 3 p.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.525/Add.1.

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Conclusions and recommendations concerning the combined third and fourth periodic reports of Luxembourg (CAT/C/34/Add.14; CAT/C/XXVIII/Concl.5)

1. At the invitation of the Chairman, Ms. Pranchère-Tomassini (Luxembourg) took a place at the Committee table.

2. Mr. MAVROMMATIS, Country Rapporteur, read out the Committee's conclusions and recommendations concerning the combined third and fourth periodic reports of Luxembourg (CAT/C/34/Add.14), contained in document CAT/C/XXVIII/Concl.5.

3. Ms. PRANCHÈRE-TOMASSINI (Luxembourg) thanked the Committee for giving her Government's combined reports such serious consideration, and for having highlighted praiseworthy aspects of the situation in the country. The Committee could be sure that her authorities were aware of all the problems cited by the Committee as subjects of concern, even if they had not yet found the proper response to them. She assured the Committee that its conclusions and recommendations would be widely disseminated.

4. Ms. Pranchère-Tomassini (Luxembourg) withdrew.

Conclusions and recommendations concerning the initial periodic report of Saudi Arabia (CAT/C/42/Add.2; CAT/C/XXVIII/Concl.6)

5. At the invitation of the Chairman, the members of the delegation of Saudi Arabia took places at the Committee table.

6. The CHAIRMAN, Country Rapporteur, read out the Committee's conclusions and recommendations concerning the initial periodic report of Saudi Arabia (CAT/C/42/Add.2), contained in document CAT/C/XXVIII/Concl.6.

7. Mr. AL-RASSI (Saudi Arabia) expressed appreciation of the admirable work the Committee was doing to defend human rights. Although it had been difficult for some members of his delegation to adapt to what was for them a new environment, he assured the Committee that Saudi Arabia would continue to cooperate with it and with all other United Nations bodies. The process of negotiation and dialogue had been a very useful and important one. The Committee's recommendations and conclusions would be taken seriously by his Government.

8. Mr. AL-MADI (Saudi Arabia) said that he continued to have serious misgivings about the Committee's subjects of concern, which again seemed to be based on the allegations of a single non-governmental organization (NGO), Amnesty International. That was unacceptable, as was the judgement expressed in paragraph 4, subparagraph (b), where the Committee took issue

with the imposition of corporal punishments such as flogging and amputation of limbs by Saudi Arabia's judicial and administrative authorities. The Committee thereby presumed to impugn the 1,400-year-old religious beliefs of Saudi Arabia. It was not within the Committee's mandate to do so.

9. The CHAIRMAN, thanking the members of the delegation for their forthright remarks, said that the Committee had been delighted to engage in a dialogue with them, to receive Saudi Arabia's initial report and to welcome such a large and well-qualified delegation. That initial encounter had been the first step in what would become an ongoing dialogue, in which both sides would put their positions as persuasively as possible.

10. The delegation of Saudi Arabia withdrew.

ORGANIZATIONAL AND OTHER MATTERS (continued)

Further proposed amendments to the rules of procedure (continued) (CAT/C/XXVIII/Misc.4)

11. The CHAIRMAN invited the members of the Committee to resume their consideration of the amendments to the rules of procedure proposed by Mr. Mavrommatis (CAT/C/XXVIII/Misc.4).

Rule 65 (Non-submission of reports) (continued)

12. Mr. EL MASRY said he wondered what the purpose was of the very vague new formulation to be added to the second sentence of paragraph 1, namely, that the Committee might "take such action as it deems appropriate, including the transmission" of reminders to States parties which had failed to submit their reports; and whether the term "defaulting State party", used in the proposed new paragraph 3, was not, perhaps, too pejorative.

13. Mr. MAVROMMATIS said that, since an action was always limited by its purpose, the Committee was not being authorized to act arbitrarily. As an example of possible action, the Committee could arrange to meet representatives of the State party concerned in order to persuade them to submit a report, rather than simply sending the State party a written reminder.

14. The CHAIRMAN said that the new clause was intended to give the Committee the discretion to do more than just transmit a reminder. If it deemed it appropriate, it could even, in certain extreme circumstances, proceed to consider the situation in the country concerned without a report. The new formulation simply gave the Committee reasonable leeway, the point being that all eventualities could not be anticipated. As for the term "defaulting", that was the exact word required in English when obligations or deadlines of any sort were not met. It had no further pejorative implications.

15. Rule 65, as amended by Mr. Mavrommatis, was adopted.

Rule 66 (Attendance by States parties at examination of reports)

16. Mr. MAVROMMATIS proposed that the existing sole paragraph of rule 66 would become paragraph 1, and a new paragraph 2 would be added, indicating the two main courses of action - formerly unspecified in the rules - available to the Committee if a State party submitted a report but failed to send any representative to the session at which the report was to be examined. The Committee could either notify the State party that it intended to consider the report at a subsequent specified session to be attended by a delegation or, if the State party indicated that it did not intend to send representatives even then, the Committee could proceed to consider the report at the session originally specified, transmitting to the State its provisional concluding observations based on the text alone.

17. Ms. GAER said that the proposed new paragraph 2, subparagraph (b), would have to cover all circumstances. She wondered whether that new subparagraph was designed to target "repeat offenders" since rule 65 dealt with non-submission. She would like confirmation that the Committee would have the discretion to go ahead with decisions or examinations of reports in each specific case.

18. The CHAIRMAN said, by way of illustration, that a State party had not submitted a report for 15 years and then submitted an inadequate report and did not attend the Committee's session. The new subparagraph would make it possible to deal with a delinquent State party of that kind, although it was very unlikely that the scenario would ever occur.

19. Mr. MAVROMMATIS said that, in the past, States parties had contacted the Committee to inform it that they could not attend on a certain date, in which case either a new date had been fixed or the Committee had informed them that it would examine their reports at its next session. However, if the State party informed the Committee that it did not intend to come to its session at all then, under the proposed new rule, the Committee would have the right to consider the report immediately instead of wasting time.

20. Mr. MARIÑO MENÉNDEZ said that he supported the idea of empowering the Committee to take action where the State party failed to cooperate or to comply with its obligations. However, he proposed a new version of subparagraph (b) whereby a full stop would be placed after the words "its provisional concluding observations", to be followed by a new sentence: "It shall then determine the date on which ...".

21. Mr. EL MASRY said he supported the proposal by Mr. Mavrommatis to include the new paragraph, but he was unsure about the two-stage procedure with the conclusions and recommendations being issued at the second stage. He wondered whether it would be possible to have an interim stage whereby the Committee could address questions to the State party concerned and make provisional comments on the report as appropriate, ask for clarification and set a date for final examination, whether the State party responded or not.

22. The CHAIRMAN said he preferred Mr. Mavrommatis' proposal because the Committee would be providing only provisional conclusions to which the State party would have the opportunity to respond. The implication would be that they would become the Committee's final conclusions unless the State party took action to convince it otherwise.

23. Ms. GAER said she was grateful to Mr. El Masry for drawing attention to the new concept in the Committee's practice of issuing "provisional conclusions". However, she felt that paragraph 2, subparagraph (b), did not make it clear under which circumstances the Committee would act. She presumed that the circumstances in question related only to a situation in which a State party had not responded at all or else had promised to attend a given session and then did not put in an appearance before the Committee.

24. Mr. MAVROMMATIS confirmed that that was the case and noted that the same procedure had been adopted by the Human Rights Committee and other treaty bodies.

25. Mr. GONZÁLEZ POBLETE said he wondered what the situation would be if the Committee submitted "provisional conclusions" in its report to the General Assembly. He would like to know whether the Committee would publish its conclusions in a provisional form or whether it would warn the State party that it had a six-month deadline to comply with article 19.

26. Mr. EL MASRY said that one solution would be to set a time limit and, if the State party did not respond or act, the Committee would be entitled to convert its provisional conclusions into final conclusions.

27. Ms. GAER asked when the report would be examined, since it was not clear from the text which report and which dates were being referred to in each case.

28. Mr. MARIÑO MENÉNDEZ said that he understood the wording to mean that, once the Committee had adopted a course of action at its original session, it would set a date for examining the report or else a new date for submission. The text thus referred to three separate dates and there was no break in its logic.

29. Rule 66, as amended by Mr. Mavrommatis, was adopted.

Rule 68 (General comments by the Committee)

30. Mr. MAVROMMATIS, introducing his proposed amendments to rule 68, explained that the first amendment (to insert the words "conclusions or recommendations" after the word "comments" in the second line of paragraph 1) was designed to cover in theory something that the Committee was already doing in practice, while the second amendment introduced a special rapporteur to follow up on compliance. The two amendments would both give the Committee legal grounds for doing what it had already done in the past.

31. The CHAIRMAN suggested that the word "special" before rapporteur be deleted and the title of rule 68 changed to "General comments, conclusions and recommendations".

32. The Chairman's suggestion was adopted.

33. Rule 68, as amended by Mr. Mavrommatis and the Chairman, was adopted.

Appointment and mandates of rapporteurs

34. The CHAIRMAN suggested that Ms. Gaer should be appointed rapporteur to follow up conclusions and recommendations under article 19 of the Convention, with Mr. González Poblete as alternate rapporteur; and that Mr. González Poblete be appointed rapporteur to follow up views under article 22 of the Convention, with Ms. Gaer as alternate rapporteur. Thus, if either rapporteur had to withdraw from proceedings in which he or she had some interest or with which he or she was otherwise connected, the alternate could step into the breach.

35. He took it that the Committee wished to accept his suggestion and to appoint Ms. Gaer and Mr. González Poblete rapporteurs, as indicated.

36. It was so decided.

37. Mr. MAVROMMATIS said that, with regard to the mandates or terms of reference of the two rapporteurs, he favoured as simple a formula as possible. They should be asked to seek information from States parties about the implementation of the Committee's conclusions, recommendations or views and report back to the Committee.

38. Mr. EL MASRY asked whether the rapporteur for article 19 of the Convention would seek information from all the States parties that had submitted reports at the previous session, or from some only, as directed by the Committee.

39. Mr. MAVROMMATIS said that follow-up should be applied to all States parties that had submitted reports, starting in 2001.

40. Ms. GAER said that the rapporteur's primary responsibility would be to analyse past practice from a theoretical and methodological standpoint, i.e. to research the whole question of how the Committee's conclusions and recommendations had been followed up in the past. It would thus be possible to develop guidelines for the future.

41. Mr. YAKOVLEV said that some States parties required more follow-up than others. If the Committee intended to single out certain States parties for special attention, the guidelines for the selection should be made explicit.

42. Mr. MARIÑO MENÉNDEZ said that it was unreasonable to expect the rapporteur to consider all reports submitted by States parties since the early 1990s, when the Committee had begun its practice of issuing conclusions and recommendations.

43. Mr. EL MASRY said that the important point was that the follow-up should yield immediate and practical results; such an approach need not exclude more leisurely methodological research.

44. Mr. GONZÁLEZ POBLETE said that there was no point in surveying the entire historical background to the conclusions and recommendations. That was a task for scholars. Follow-up presupposed that the rapporteur should acquaint himself with the State party's earlier reports and how it had reached the Committee's conclusions and recommendations. As for the follow-up of communications under article 22 of the Convention, the State party was normally given six months to comply with the Committee's views and, quite obviously, nothing could be done before that period had elapsed. The purpose of follow-up was to make a practical contribution to the work of the Committee.

45. The CHAIRMAN said that the Secretariat would devise draft mandates and submit them for the Committee's approval at a subsequent meeting.

The public part of the meeting rose at 5.10 p.m.